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6 Attorneys for GILMORE E. ERICKSON  
and DRESDEN M. ERICKSON

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 IN RE: ) CHAPTER 7  
11 GILMORE E. ERICKSON AND )  
12 DRESDEN M. ERICKSON ) RELATED MAIN CASE NO.: 09-52811ASW  
13 Debtors. )  
14 \_\_\_\_\_ ) RELATED ADV. CASE NO: 09-05330  
15 VICTORIA ARREOLA; LYDIA BURCH; )  
16 YEE-KEONG CHAN; STEVEN R. ) Date: February 22, 2010  
17 HOFFMAN; DIANA RICE/EXCELLENT ) Time: 10:00 a.m.  
18 EVENTS, LLC; RAMIN SOHEILI, ) Place: Room 215  
19 TRUSTEE OF THE ALBORZ 2003 )  
20 TRUST; STAN SHORE ) The Honorable Arthur S. Weissbrodt  
Plaintiffs. )  
vs )  
GILMORE E. ERICKSON AND )  
DRESDEN M. ERICKSON )  
Defendants. )

## ANSWER

23 The Defendants, Gilmore E. Erickson and Dresden M. Erickson, by and through their Attorneys,  
24 The Law Offices of David A. Boone, answer the Complaint as follows:

1. Defendants admit the allegations contained in paragraph 1 of the adversary complaint.

- 1      2. Defendants admit the allegations contained in paragraph 2 of the adversary complaint.
- 2      3. Defendants deny the allegations contained in paragraph 3 of the adversary complaint.
- 3      4. Defendants deny the allegations contained in paragraph 4 of the adversary complaint.
- 4      5. Defendants deny the allegations contained in paragraph 5 of the adversary complaint.
- 5      6. Defendants deny the allegations contained in paragraph 6 of the adversary complaint.
- 6      7. Defendants deny the allegations contained in paragraph 7 of the adversary complaint.
- 7      8. Defendants deny the allegations contained in paragraph 8 of the adversary complaint.
- 8      9. Defendants deny the allegations contained in paragraph 9 of the adversary complaint.
- 9      10. Defendants deny the allegations contained in paragraph 10 of the adversary complaint.
- 10     11. Defendants deny the allegations contained in paragraph 11 of the adversary complaint.
- 11     12. Defendants deny the allegations contained in paragraph 12 of the adversary complaint.
- 12     13. Defendants deny the allegations contained in paragraph 13 of the adversary complaint.
- 13     14. Defendants deny the allegations contained in paragraph 14 of the adversary complaint.
- 14     15. Defendants admit the allegations contained in paragraph 15 of the adversary complaint.
- 15     16. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the adversary complaint and on that basis deny said allegations.
- 16     17. Defendants reallege the forgoing paragraphs and incorporate them by reference as if fully said forth herein.
- 17     18. Defendants deny the allegations contained in paragraph 18 of the adversary complaint.
- 18     19. Defendants deny the allegations contained in paragraph 19 of the adversary complaint.
- 19     20. Defendants deny the allegations contained in paragraph 20 of the adversary complaint.
- 20     21. Defendants deny the allegations contained in paragraph 21 of the adversary complaint.
- 21     22. Defendants deny the allegations contained in paragraph 22 of the adversary complaint.
- 22     23. Defendants reallege the forgoing paragraphs and incorporate them by reference as if fully set forth herein.

- 1      24. Defendants deny the allegations contained in paragraph 24 of the adversary complaint.  
2      25. Defendants deny the allegations contained in paragraph 25 of the adversary complaint.  
3      26. Defendants deny the allegations contained in paragraph 26 of the adversary complaint.  
4      27. Defendants deny the allegations contained in paragraph 27 of the adversary complaint.  
5      28. Defendants deny the allegations contained in paragraph 28 of the adversary complaint.  
6      29. Defendants deny the allegations contained in paragraph 29 of the adversary complaint.  
7      30. Defendants deny the allegations contained in paragraph 30 of the adversary complaint.

8 WHEREFORE, Defendants pray that if any debt is owed to Plaintiffs, it be deemed  
9 dischargeable.

10                   **FIRST AFFIRMATIVE DEFENSE**

11                  As a first, separate and affirmative defense, the answering Defendants allege that  
12 the Complaint fails to state a claim against the Defendants upon which relief can be granted in  
13 that no subsection of 11 U.S.C. §523 (a)(2) is specifically pled and such subsections are mutually  
14 exclusive.

15                   **SECOND AFFIRMATIVE DEFENSE**

16                  As a second, separate and affirmative defense, the answering Defendants allege that  
17 the Complaint fails to state a claim against the Defendants upon which relief can be granted in that  
18 the circumstances constituting fraud or misrepresentation are not stated with particularity.

19                   **THIRD AFFIRMATIVE DEFENSE**

20                  As a third, separate and affirmative defense, the answering Defendants allege that  
21 Plaintiffs' claims are barred as Plaintiffs failed to exercise reasonable and ordinary care, caution  
22 or prudence in order to avoid the damages incurred. The resulting damages, if any, sustained by  
23 Plaintiffs were proximately caused and contributed to by the negligence of the Plaintiffs.

24                   **FOURTH AFFIRMATIVE DEFENSE**

25                  As a fourth, separate and affirmative defense, the answering Defendants allege

1 that Plaintiffs' claims are barred as Plaintiffs failed to exercise reasonable care and diligence to  
2 mitigate Plaintiffs' alleged damages. Defendants allege damages and interest would have been  
3 avoided if the Plaintiffs had diligently attempted to mitigate damages, if any, immediately after  
4 incurring the same.

5 **FIFTH AFFIRMATIVE DEFENSE**

6 As a fifth, separate and affirmative defense, the answering Defendants allege that  
7 Plaintiffs' claims are barred by Plaintiffs' conduct under principles of waiver and estoppel.

8 **SIXTH AFFIRMATIVE DEFENSE**

9 As a sixth, separate and affirmative defense, the answering Defendants allege that  
10 the Plaintiffs are barred from recovering on any of their claims as any alleged loss was an  
11 assumed risk undertaken by Plaintiffs.

12 **SEVENTH AFFIRMATIVE DEFENSE**

13 As a seventh, separate and affirmative defense, the answering Defendants allege that the  
14 Plaintiffs are barred from recovering on any of their claims as any alleged reliance was not  
15 reasonable nor justified.

16  
17 Dated: February 2, 2010

LAW OFFICES OF DAVID A. BOONE

18  
19 By: /s/ Susan B. Luce  
20 Susan B. Luce  
21 Attorney for Defendants/Debtors  
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